

REMARKS

In response to the above-identified Office Action, Applicants amend the application and submit the following remarks. Applicants canceled claims 2, 10 and 24. No new claims have been added. Accordingly, claims 1, 3-6, 8-9, 11-13 and 23 (3 independent; 11 total) remain pending. Reconsideration is respectfully requested.

Claims Rejected Under 35 U.S.C. §102

The Examiner rejects claims 1, 3, 4, 8, 9, 11 and 23 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,206,178 issued to Lamb. In making the rejection, the Examiner characterizes Lamb as teaching each of the elements of claim 1. Specifically, the Examiner stated the "rate at which liquid travels through the emanator is equal to the rate at which the liquid would travel through the first material 12 alone, and the rate at which liquid travels through the emanator is greater than the rate at which the liquid would travel through the second material 11; because the first material 12 is porous while the second layer 11 is nonporous." (Emphasis added). Applicants traverse.

As noted by the Examiner, to anticipate a claim, the cited reference must teach each of the elements of the rejected claim. Among other elements, claim 1 (and similarly, claims 9 and 23), as amended, recites an emanator comprising, "a first porous material" and "a second porous material that is disposed adjacent to said first porous material." Additionally, amended claim 1 further recites that the emanator is "configured such that a liquid travels through the emanator at a rate greater than a rate at which it would travel through said first porous material alone and greater than a rate at which it would travel through said second porous material alone.

Stated otherwise, the first and second materials are porous and a liquid travels at a greater

rate through the combination of the first and second materials, rather than either one individually--there is a synergistic effect of the two materials in combination on the overall transfer rate is achieved.

As such, the Examiner's contention that Lamb discloses, "[T]he rate at which liquid travels through the emanator is equal to the rate at which the liquid would travel through the first material 12 alone, and the rate at which liquid travels through the emanator is greater than the rate at which the liquid would travel through the second material 11" is obviated. Applicants thus submit Lamb fails to teach at least these elements of claim 1 (and claims 9 and 23). Accordingly, Applicants respectfully request withdrawal of this rejection of claims 1, 9 and 23.

Claims 3, 4, 8 and 11 each variously depend from claims 1 or 9 and include all of the elements thereof. Therefore, Applicants submit claims 3-4, 8 and 11 are not anticipated by Lamb at least for the same reasons as claims 1 and 9. Accordingly, Applicants respectfully request withdrawal of this rejection of claims 3-4, 8 and 11.

Next, the Examiner rejects claims 1-3, 9, 10, 23, and 24 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2,943,378 issued to Harkenrider et al. ("Harkenrider"). Applicants traverse and have amended claims 1, 9, and 23. Claims 2, 10 and 24 have been canceled obviating these rejections. In making the rejection, the Examiner states that, "Harkenrider discloses an emanator comprising a first material 26 and second material 28." Applicants traverse the rejections of remaining claims 1, 3, 9 and 23.

However, while Harkenrider may teach a first and second material, Harkenrider does not teach, suggest, or claim the benefit of two materials wherein the capillary action of the first and second materials in combination results in a greater over-all transfer rate then either of the first or second materials alone.

In contrast, Applicants note that, among other elements, claim 1 (and again, claims 9 and 23), as amended, defines an emanator comprising,

[An] emanator is configured such that a liquid travels through the emanator at a rate ~~no less~~ greater than a rate at which it would travel through said first porous material alone and ~~no less~~ greater than a rate at which it would travel through said second porous material alone.

(Emphasis Added).

Applicants submit Harkenrider fails to teach at least this element of claim 1 and therefore, claim 1 is not anticipated by Harkenrider. Furthermore, for similar arguments recited above, independent claims 9 and 23 are likewise not anticipated by Harkenrider. Accordingly, Applicants respectfully request withdrawal of this rejection of claims 1, 9 and 23.

Additionally, claim 3 depends from claim 1 and as such, Applicants submit claim 3 is likewise not anticipated by Harkenrider. Accordingly, Applicants respectfully request withdrawal of this rejection of claim 3.

Claims Rejected Under 35 U.S.C. §103

The Examiner rejects claims 4-6 and 11-13 under 35 U.S.C. §103(a) as being unpatentable over Harkenrider et al. (2,943,378) in view of U.S. Patent No. 6,296,196 issued to Denen et al. In making the rejection, the Examiner asserts Harkenrider teaches each of the elements of claims 4-6 and 11-13 except for disclosing nylon and polypropylene. Applicants traverse and have amended claims 4-6 and 11-13.

First, amended claims 4-6 and 11-13 variously depend from either claim 1 or 9 and include all the elements thereof. Specifically, as a result of the dependence they include the elements:

emanator is configured such that a liquid travels through the emanator at a rate greater than a rate at which it would travel through said first porous material alone and greater than a rate at

which it would travel through said second porous material alone,
or,

wherein said second porous material is a different material than
said first porous material, and the emanator is configured such that
said liquid fragrance has a third travel rate through the emanator,
said third travel rate greater than said first travel rate and greater
than said second travel rate.

Applicants submit, for similar grounds as set forth above, Harkenrider in view of Denen fails to teach or suggest at least these elements of claims 4-6 and 11-13. Specifically, the combination of Harkenrider and Denen do not teach the use of first and second porous materials wherein a liquid travels at a greater rate through the combination of the first and second materials than either one individually--a synergistic effect.

Accordingly, Applicants respectfully request withdrawal of this rejection of claims 4-6 and 11-13.

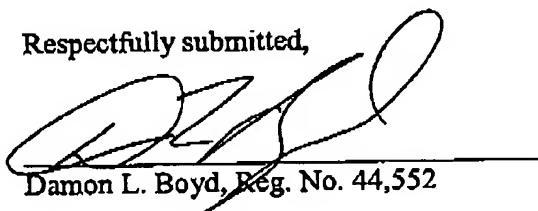
CONCLUSION

In view of the above amendments and remarks, Applicants submit that all of the currently pending claims, 1, 3-6, 8-9, 11-13 and 23 properly set forth that which Applicants regard as their invention and are allowable over the cited prior art.

Accordingly, Applicants respectfully request reconsideration and allowance of all pending claims. The Examiner is invited to telephone the undersigned at (602) 382-6337 at the Examiner's convenience, if that would help further prosecution of the subject Application. If necessary, the Commissioner is hereby authorized to charge payment or credit any overpayment to Deposit Account No. 19-2814 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17.

Dated: 10 August 2005

Respectfully submitted,



Damon L. Boyd, Reg. No. 44,552

SNELL & WILMER L.L.P.
400 E. Van Buren
One Arizona Center
Phoenix, Arizona 85004-2202
Phone: 602-382-6337
Fax: 602-382-6070
E-mail: dboyd@swlaw.com